

DISTRICT COURT
MOTION TO MODIFY CHILD SUPPORT AND/OR SPOUSAL MAINTENANCE

USE CHILD SUPPORT FORMS FOR DISTRICT COURT IF:

- (1) There is already an existing court order setting or reserving child support and/or spousal maintenance;
- (2) You are asking the court to change basic support, medical support, child care, and/or spousal maintenance; **and**
- (3) You or the other party are **not** receiving public assistance or child support enforcement services (Title IV-D services) from the local child support enforcement agency, or you or the other party **ARE** receiving public assistance or child support enforcement services **AND** you are requesting to modify spousal maintenance and/or seeking other relief from the court that will be set for hearing at the same time as the motion for modification.

If you or the other party are receiving Title IV-D services, and only want to change child support, you must use the child support forms for the expedited child support process.

You cannot use the motion to modify child support forms to change parenting time (visitation) or custody

New terms:

Joint child – is the dependent child of both parents in the support action.

Nonjoint child – is the legal child of one, but not both parents in the support action.

- Court personnel **cannot** help you fill out these forms.
- You may need to speak with a lawyer or other legal services provider if you do not know how to answer the questions on the forms.
- You **must** fill out all forms listed in these instructions (the Motion to Modify, the Affidavit in Support of Motion to Modify, the Affidavit of Service, Form 11.1 (if necessary), and Form 11.2).
- Type your answers or print neatly using dark ink.

GENERAL INFORMATION

When filling out the forms be as accurate and as detailed as possible. The hearing will be held before a district court judge. A court order for child support may be changed by showing that the current support order is unreasonable and unfair because of:

- Substantial increase / decrease in gross income of a party;
- Substantial increase / decrease in need of a party or the joint child(ren) involved in this court order;
- Receipt of public assistance;
- A change in the cost of living for either party as measured by the Federal Bureau of Labor Statistics;
- Extraordinary medical expenses of the child not provided for under a health care plan;
- A change in the availability of appropriate health care coverage or a substantial change in the cost of existing health care coverage;
- The addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses;
- The emancipation of a child. Emancipation may occur by attaining the age of 18, graduating from high school, or joining the military;
- A change in the residence of the child(ren).

If you are now ordered to pay child support and are requesting child support to be suspended because the child(ren) is/are living with you, you must provide proof. Examples of things that you can file with the court as proof are:

- a signed and notarized statement from the other party stating the child(ren) has/have changed residence
- school records
- day care records or medical records

INSTRUCTIONS

Helpful materials may be found at your public county law library. For a directory, see <http://mn.gov/law-library/research-links/county-law-libraries.jsp> . For more information, contact your court administrator or call the Minnesota State Law Library at 651-296-2775.

STEP 1 **FILL OUT THE “NOTICE OF MOTION AND MOTION TO MODIFY CHILD SUPPORT/SPOUSAL MAINTENANCE” FORM**

The information to fill in the boxes and blanks at the top of the form can be found at the top of your current child support order/maintenance order or your divorce or paternity decree, including:

- The county where your case is located (which may be different from the county where you live).
- The number of the judicial district
- The court file number
- The name of the Petitioner
- The name of the Respondent

If you are the Petitioner in the current order or decree you will be the Petitioner in this motion. If you are the Respondent in the current order or decree you will be the Respondent in this motion.

Fill in the name and last known address of the other party where your case is located. **DO NOT** fill in the date, time, and location of the hearing. You will fill in this information as part of Step 4 below.

In the area marked “Motion”, check off only the boxes that list the changes you are asking the court to make -- you do not need to check off every box. You may check off as many boxes as you wish, but it will be up to the court to decide what changes will actually be ordered.

Fill in the name and phone number of the person to contact to settle this matter.

STEP 2 **FILL OUT THE “AFFIDAVIT IN SUPPORT OF MOTION TO MODIFY CHILD SUPPORT/SPOUSAL MAINTENANCE” FORMS**

Fill in the top of both Affidavit forms the same way you did on your “Notice of Motion and Motion” form.

Fill in the information on the “Affidavit in Support of Motion”.

Signing the Affidavit under penalty of perjury means you are stating that the information in the Affidavit is true to the best of your knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

Gather documents that support your reasons why the support order should be changed. Examples of these documents include the following:

- Proof of your gross income (recent pay stubs, employer statements, or statements of receipts and expenses if you are self-employed. Other documentation may include W-2 forms or copies of your tax returns for the most recent year)
- Proof of unemployment / disability (lay-off notice, doctor’s statement, etc.)
- Verification for status of unemployment compensation claim or worker’s compensation claim

- Verification of receipt and amount of social security income
- Verification of child care expenses
- Verification of the cost of health care and/or dental insurance coverage

STEP 3
FILL OUT THE “CONFIDENTIAL FINANCIAL SOURCE DOCUMENTS” FORM 11.2.
FILL OUT “CONFIDENTIAL INFORMATION” FORM 11.1 WHEN NECESSARY

NOTE! **Certain information is considered confidential and not available to the public. To keep this information private and not available to the public, you must attach Form 11.2 to certain documents that contain confidential information.**

See Rule 11 of the Minnesota General Rules of Practice for more information. One Form 11.2 can be used for all documents containing confidential information. Examples of documents that have confidential information include:

- Paycheck stubs, employer statements, W-2 forms, or business income and business expenses
- Copies of your tax returns and schedules
- Bank statements
- Credit card statements
- Check registers

To protect your privacy, the other parties, and your child(ren), all social security numbers, employer identification numbers, and financial account numbers must not be listed on papers you file with the court. You must use Form 11.1 when providing these confidential numbers to the court. Form 11.1 can be found at www.mncourts.gov/forms under the court forms category of “Confidential Information” and is court form number CON111. Failure to use Form 11.1 means these numbers could be available to the general public and you could be charged court costs and the court may order other sanctions against you for the failure to keep your and the other party’s social security number, employer identification number, and/or financial account numbers private. **If these numbers are already on file with the court, you do not need to submit another Form 11.1.**

STEP 4
OBTAIN A HEARING DATE, TIME, AND LOCATION
FROM COURT ADMINISTRATION

- Contact the court administrator's office in the county where your case is located.
- Ask for a hearing date, time, location of the hearing, and the name of the judge or referee who will hear the matter. The hearing date must be at least 17 days away from the date the motion papers are mailed to the other party. Count the day after it is mailed as Day 1.
- Fill in the date, time, and location of the hearing on the “Notice of Motion and Motion” form.

STEP 5
MAKE COPIES OF FORMS

- Make two copies of the completed “Notice of Motion and Motion” form, two copies of your “Affidavit in Support of Motion” form, and two copies of all other documents that support your motion (e.g. paycheck stubs, tax returns, proof of expenses). **Do not** make copies of Forms 11.2 or 11.1, unless you want copies for your own records.
- Keep one copy of each form and one copy of all supporting documents for yourself (remember to bring your copies with you to court on the day of your hearing).

STEP 6
**HAVE COPIES OF THE FORMS AND SUPPORTING DOCUMENTS
SERVED ON THE OTHER PARTY**

You must arrange for the other party to receive complete copies of all forms and supporting documents you have prepared for the hearing. This is called “service of process.” A copy of the motion, affidavits, and any supporting documents must be served upon all parties, either personally or by mail. If a party is represented by an attorney, the forms and supporting documents must be served on the attorney instead of the party.

Personal service: forms and supporting documents are hand delivered to the other party personally or by leaving them at that party’s place of residence with some person who is of suitable age or discretion who also lives at the same residence. Forms and supporting documents must be hand delivered at least 14 days before the hearing date.

Mail service: forms and supporting documents are mailed by first class U.S. mail to the other party at least 17 days before the hearing date.

If your forms and supporting documents are not timely served upon the other party (or his/her attorney), your motion may not be heard by the court.

NOTE! YOU CANNOT HAND DELIVER OR MAIL THE DOCUMENTS YOURSELF. YOU MUST HAVE SOMEONE ELSE OVER THE AGE OF 18 WHO IS NOT A PARTY TO THE CASE HAND DELIVER OR MAIL THE DOCUMENTS FOR YOU.

STEP 7
COMPLETE THE “AFFIDAVIT OF SERVICE” FORM

The person who hand delivers or mails the forms and supporting documents must fill out an “Affidavit of Service” form for each party served.

The server must sign the “Affidavit of Service” under penalty of perjury. By signing the Affidavit under penalty of perjury, the server is stating that the information in the Affidavit is true to the best of his / her knowledge. Perjury is the crime of intentionally lying or misrepresenting the truth, punishable by jail or other sanctions.

STEP 8
FILE THE FORMS AND SUPPORTING DOCUMENTS WITH COURT
ADMINISTRATION AND PAY ANY REQUIRED COURT FEE

File the forms and supporting documents with court administration in the county where your case is located as soon as practical but no later than 14 days before the scheduled hearing.

- The “Notice of Motion and Motion to Modify Child Support and/or Spousal Maintenance”
- The “Affidavit in Support of Motion to Modify Child Support and/or Spousal Maintenance”
- The “Affidavit of Service”

Filing by facsimile: Any paper may be filed with the court by facsimile (fax). If documents are filed by fax, the original documents must not be filed, but you must keep all original documents and make them available to the court or any party upon request.

Form 11.2

You must file copies of all supporting documents (such pay stubs, employer statements, tax returns, verification of medical/dental insurance costs or expenses, child care expenses, disability payments) and complete and file with the court one Form 11.2 for supporting documents that contain confidential information (see Step 3). Check your documents to make sure all blanks are filled in, especially on the Affidavit of Service and the motion. All papers served must be identical copies of the forms and supporting documents filed with the court.

NOTE: If you fail to use the Form 11.2 cover sheet to protect confidential information in your supporting documents, the court may order you to pay additional court costs or other sanctions as a penalty for failing to follow the court rules.

Court Fees

Pay the \$100 modification fee at the time you file this motion. If you did not pay an initial filing fee when this case first began, you will be asked by court administration to pay the initial filing fee and library fees as well as the \$100 modification fee before your motion can be heard by the court. Court administration will be able to tell you if you have paid the initial filing fee.

If you cannot afford to pay the fee, you may qualify to have the filing fee and motion fee waived by the court. You need to fill out an In Forma Pauperis application (available from court administration or the court website) and file it with court administration. Your application will be reviewed by a judge who will decide whether you must pay the fee. If the judge does not sign an order that waives the fee, you must be prepared to pay the fee.

STEP 9
APPEAR AT THE HEARING

Come to court on the date and time scheduled for the hearing. Be sure to bring with you your copy of the “Motion to Modify Child Support and/or Spousal Maintenance”, “Affidavit in Support of Motion to Modify Child Support and/or Spousal Maintenance”, and all of your supporting documents. You must bring enough copies of any supporting documents not already filed with the court nor served on the other party so that copies can be given to the other party and the court.